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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:) Case No.: 22-14422-NMC
MUSCLEPHARM CORPORATION,)
Debtor.) Chapter 11
)
)
)
)
) Hearing Date: **OST Requested**
) Hearing Time: **OST Requested**

**DECLARATION OF NICHOLAS RUBIN IN SUPPORT
OF MOTION TO QUASH SUBPOENA TO VERIZON OR, IN
THE ALTERNATIVE, FOR ISSUANCE OF A PROTECTIVE ORDER**

I, Nicholas Rubin, hereby declare as follows:

1. I am over the age of 18 and mentally competent.
 2. I am a principal of Force Ten Partners, LLC, and currently serve as an independent director of MusclePharm Corporation (“**MusclePharm**” or the “**Debtor**”).
 3. I submit this declaration for all permissible purposes under the Federal Rules of Civil Procedure and Rules of Evidence in support of the Debtor’s *Motion to Quash Subpoena to Verizon or, in the Alternative, for Issuance of a Protective Order* (the “**Motion to Quash**”).¹

¹ Capitalized terms not defined herein have the meanings set forth in the Motion to Quash.

1 4. Except as otherwise indicated herein, the facts set forth in this Declaration are based
2 upon my personal knowledge, information provided to me or verified by my professional advisors,
3 and/or my opinion based upon my experience, and/or my personal knowledge.

4 5. I am a co-founder of Force Ten Partners, LLC (“**Force 10**”), an advisory firm
5 specializing in financial and operational restructuring, mergers, acquisitions, divestitures, corporate
6 finance investment banking, asset sales, valuation, forensic accounting, complex litigation support,
7 fiduciary services, and similar services. Force 10 and its professionals, including myself, serve as
8 financial advisors, chief restructuring officers, interim managers, trustees, expert witnesses,
9 investment bankers, and M&A advisors to companies, creditor committees, and other stakeholders
10 in in-court and out-of-court restructuring matters across the country.

11 6. On January 23, 2023, the Court entered the Second Interim DIP Order [ECF No.
12 139], approving my appointment to the Debtor’s Board of Directors as the independent director.

13 7. The Subpoena to Verizon seeks all text messages sent from, and received by, the
14 “Subject Phone Numbers” during the period of December 15, 2022, through the date of Verizon’s
15 response to the Subpoena, and related data. The “Subject Phone Numbers” are my office and cellular
16 phone numbers.

17 8. In seeking all texts send from and received by my cellular phone number, the
18 Subpoena necessarily encompasses my text communications with the Debtor’s counsel, which may
19 be privileged or work product, and personal communications, including communications with my
20 spouse and minor child.

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9. The Subpoena also encompasses communications with Force 10's clients, their counsel, and other Force 10 professionals in a number of matters that have nothing to do with this Chapter 11 Case, including privileged communications and communications that would reveal highly confidential, nonpublic information of third parties, such as the identity of companies that are engaged in restructuring negotiations or deliberating a Chapter 11 filing.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 6th day of June 2023.

/s/ Nicholas Rubin
NICHOLAS RUBIN
Independent Director of MusclePharm
Corporation